

FILED

MAR 2 2013

RICHARD W. WIEKING
CLERK U.S. DISTRICT COURT,
NORTHERN DISTRICT OF CALIFORNIA

1 STUART F. DELERY
Principal Deputy Assistant Attorney General

2 MELINDA HAAG (CSBN 132612)
3 United States Attorney
4 ALEX G. TSE (CSBN 152348)
Chief, Civil Division
5 ERICA BLACHMAN HITCHINGS (MABN 669825)
Special Assistant United States Attorney
6 450 Golden Gate Avenue, Box 36055
San Francisco, California 94102
7 Telephone: (415) 436-7015
Facsimile: (415) 436-6927
8 erica.hitchings@usdoj.gov

9 MICHAEL D. GRANSTON
SARA McLEAN
10 KIMBERLY I. FRIDAY
Attorneys
Civil Division
11 United States Department of Justice
P.O. Box 261
12 Ben Franklin Station
Washington, D.C. 20044
13 Telephone: (202) 305-4207

14 Attorneys for the United States of America

15 **UNITED STATES DISTRICT COURT**
16 **NORTHERN DISTRICT OF CALIFORNIA**
17 **SAN FRANCISCO HEADQUARTERS**

18 UNITED STATES OF AMERICA *ex rel.*)
19 PROTRANSPORT-1, LLC)
20 and STATE OF CALIFORNIA *ex rel.*,)
21 PROTRANSPORT-1, LLC)
22 and PROTRANSPORT-1, LLC, a)
23 limited liability company, in its)
individual capacity,)

24 Plaintiffs,

25 v.

26 KAISER FOUNDATION HEALTH
PLAN, INC., a corporation)

27 Defendant.
28

Case No. C 12-3896 LB

**UNITED STATES' AND STATE OF
CALIFORNIA'S NOTICE OF ELECTION
TO DECLINE INTERVENTION;
[PROPOSED] ORDER TO UNSEAL**

FILED UNDER SEAL

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Gov't Code § 12652(f)(2)(A). If the parties attempt to dismiss, settle, or otherwise discontinue the action, California requests that the Court provide California with notice and an opportunity to be heard prior to the Court's ruling or granting of its approval. Cal. Gov't Code §§ 12652(c)(1). Additionally, California reserves its right to request copies of all pleadings filed with the court and copies of all deposition transcripts taken in this case. Cal. Gov't Code § 12652(f)(1).

C. Unsealing Request

Finally, the United States and California request that the Court unseal: (1) Relator's Complaint; (2) the summons; (3) the scheduling order; (4) this Notice of Election to Decline Intervention, with (Proposed) Order to Unseal; and (5) all other matters occurring in this action after the date the Court enters the unsealing order. The United States and California request that all other contents of the Court's file in this matter (including, but not limited to, any applications filed by the United States and/or California for extensions of the sixty-day investigative period, any applications for partial lifting of the seal, and any orders previously entered in this matter) remain under seal and not be made public or served upon Defendant.

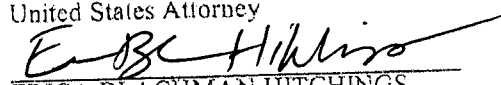
Respectfully submitted,

STUART F. DELERY
Principal Deputy Assistant Attorney General

MELINDA HAAG
United States Attorney


Dated: March 22, 2013

By:


ERICA BLACHMAN HITCHINGS
Special Assistant United States Attorney

Dated: March 21, 2013

By:

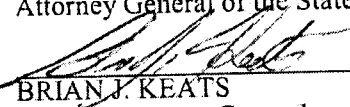

MICHAEL D. GRANSTON
SARA McLEAN
KIMBERLY I. FRIDAY
Civil Division, U.S. Department of Justice

Attorneys for the United States of America

KAMALA HARRIS
Attorney General of the State of California

Dated: March 20 2013

By:


BRIAN J. KEATS
Deputy Attorney General
Attorneys for the State of California

~~PROPOSED~~ ORDER

The United States and the State of California having declined to intervene in this action pursuant to the Federal False Claims Act, 31 U.S.C. § 3730(b)(4)(B), and the California False Claims Act, Cal. Gov't. Code § 12652(c)(6)(B), respectively, the Court rules as follows:

IT IS HEREBY ORDERED that,

1. All current contents of the Court's file in this action shall remain under seal and not be made public or served upon the defendants, except for (1) Relator's Complaint; (2) the summons; (3) the scheduling order; and (4) this Notice of Election to Decline Intervention, with (Proposed) Order to Unseal, which are hereby unsealed.

2. The relator shall serve the Complaint upon the defendant.

3. The relator shall serve this Order and the accompanying Joint Notice of Election to Decline Intervention upon the defendant after service of the Complaint.

4. The seal shall be lifted as to all other matters occurring in this action after the date of this Order.

5. The parties shall serve all pleadings and motions filed in this action, including supporting memoranda, upon the United States, as provided for in 31 U.S.C. § 3730(c)(3), and upon California. The United States and California may order any deposition transcripts and are entitled to intervene in this action, for good cause, at any time.

6. The parties shall serve all notices of appeal upon the United States and California.

7. All orders of this Court shall be sent to the United States and California.

8. Should the relator or the defendant(s) propose that this action be dismissed, settled, or otherwise discontinued, the Court will provide the United States and California with notice and an opportunity to be heard before ruling or granting its approval.

IT IS SO ORDERED.

Dated: MAR 2 2013


LAUREL BEELER
United States Magistrate Judge

CERTIFICATE OF SERVICE

The undersigned hereby certifies that she is an employee of the Office of the United States Attorney for the Northern District of California and is a person of such age and discretion to be competent to serve papers. The undersigned further certifies that she is causing a copy of the following:

UNITED STATES' AND STATE OF CALIFORNIA'S NOTICE OF ELECTION TO DECLINE INTERVENTION; [PROPOSED] ORDER TO UNSEAL

to be served this date upon the persons indicated below at the addresses shown:

Brian J. Keats, Esq.
Bureau of Medi-Cal Fraud and Elder Abuse, DOJ
1425 River Park Drive, Suite 300
Sacramento, CA 95815

George S. Azadian, Esq.
2596 Mission Street, Suite 204
San Marino, CA 91108

☒ **BY FIRST CLASS MAIL** by placing a true copy thereof in a sealed envelope with postage thereon fully prepaid in the designated area for outgoing U.S. mail in accordance with this office's practice.

☐ **CERTIFIED MAIL (#)** by placing such envelope(s) with postage thereon fully prepaid in the designated area for outgoing U.S. mail in accordance with this office's practice.

☐ **BY PERSONAL SERVICE (BY MESSENGER):** I caused such envelope to be delivered by hand to the person or offices of each addressee above.

☐ **BY FACSIMILE (FAX):** I caused each such document to be sent by facsimile to the person or offices of each addressee above.

☐ **BY E-MAIL:** I caused each such document to be sent by e-mail to the person or offices of each address above.

☐ **BY FEDERAL EXPRESS**

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed March 21, 2013 at San Francisco, California.


Jessica Meegan
Legal Assistant

UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

KAISER FOUNDATION HEALTH PLAN,
INC.,

Defendant.

Case Number: CV12-03896 LB

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.


That on April 2, 2013, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Erica Blachman Hitchings
Special Assistant United States Attorney
450 Golden Gate Avenue, Box 36055
San Francisco, CA 94102

Michael D. Granston
Sara McLean
Kimberly I. Friday
Attorneys - Civil Division
United States Department of Justice
P.O. Box 261
Ben Franklin Station
Washington, D.C. 20044

(Counsel directed to serve the appropriate parties.)

Dated: April 2, 2013


Richard W. Wieking, Clerk
By: Lashanda Scott, Deputy Clerk